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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/524,029
Filing Date: March 13, 2000
Appellant(s): BELL, CYNTHIA S.

Timothy N. Trop
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 28th, 2008 appealing from the Office action mailed March 28th, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Appeal No. 2007-1300, decided June 18, 2007, in this case.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

JP 08/242,398	Murakami	9-1996
US 4,847,483	Nishibe et al.	7-1989

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-2 and 5-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The Examiner was unable to locate any discussion within the specification reciting the specific limitation that the detected ambient light is the ambient light **on** a display. While there is numerous discussion of ambient light detection there is *never* any recitation that the ambient light is incident on the display. There is, however, an example to the contrary on page 10, lines 15-21 of the specification.

In this discussion of microdisplay systems it is contemplated that the invention is used for microdisplays which specifically "exclude external light." The embodiment goes on to discuss "adjusting the display brightness based upon the ambient lighting." Thus, in at least this embodiment, the Applicant has defined ambient lighting to refer to environmental lighting and not specific to the ambient light directly incident on the display. This definition is in contradiction to the currently claimed limitations of claim 1 and its dependents claims 2 and 5-6.

2. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murakami (JP 08-242398) in view of Nishibe et al. (US 4,847,483).

With respect to claim 1, Murakami discloses, receiving an indicator (light of a given level via lens 10) of the ambient light on a display (LCD – 102) by accumulating energy into a plurality of sensors (image pick-up element 32), determining the indicator (level of the light is determined – [0026]), and automatically adjusting a brightness for the display based upon the indicator [0027] of ambient light on the display (bright location backlight is bright, and in dark locations backlight is darker – [0027]).

In Murakami the indicator is determined by averaging the luminance over the entire image plane [0026], and therefore the determination of the indicator is not based upon an integration time derived on the basis of the accumulated energy. However, it is conventional in the art to determine the level of ambient light by deriving an integration time of an image sensor based upon accumulated light energy and using the value of the integration time as a determinate of light level as disclosed in Nishibe et al. (column 1, lines 12-13 and 41-42; column 2, lines 28-31). Note that the integration time is derived based upon the accumulated energy In that the length of the period of integration depends on the level of the light, and further the indicator of light level is based on the period of time required for the integrated value to reach a predetermined value (column 2, lines 28-31). The arrangement in Nishibe et al. enables light measurement to be performed over a wide dynamic range (column 2, lines 16-18), a feature well known in the art to be important due to the wide range of light levels encountered in imaging operations (see for instance, column 1, lines 55-60).

Furthermore it is clear that the Nishibe et al. arrangement would be faster and less processing-intensive than the arrangement of Murakami since the need to compute an average light level over the entire image plane would not be necessary.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to employ in Murakami the method taught in Nishibe et al. to determine the indicator in order to enable the device to perform in an ambient environment having a large range of light levels and to reduce the time and burden of image processing.

With respect to claim 6, the accumulating energy in Murakami produces an analog signal [0021].

3. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murakami (JP 08-242398) in view of Nishibe et al. (US 4,847,483) and further in view of Helms (US 5,760,760).

With respect to claim 2, Murakami and Nishibe et al. are silent as to how the indicator is used in adjusting display brightness. However, it is well known in the art to perform such an operation by using a brightness adjustment indicator in a look-up table as disclosed in column 4, lines 6-21 of Helms. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the indicator of Murakami and Nishibe et al. as an index in a look-up table as part of the operation of CPU35 in order to implement a reliable and well-established design for adjusting the brightness of a display on the basis of ambient light.

With respect to claim 5, Helms discloses receiving a brightness value for the display from the look-up table (column 4, lines 6-21).

(10) Response to Argument

In section A, the Appellant argues that there is no limitation in claim 1 that requires that "the detected ambient light is the ambient light on a display."

The Examiner must respectfully disagree. The amended claim language seems quite clear. The claim calls for "receiving an indicator of the ambient light on a display." The ambient light is simply the ambient light **on** the display. This is seen as an interpretation of the phrasing which is well-within the broadest reasonable interpretation of the claim.

In section B, the Appellant presents several arguments. First the Appellant argues the current rejection is no different than the rejection overturned in the previous decision by the Board.

The Examiner must respectfully disagree. First and foremost two new pieces of art are used to form the obviousness rejection. These two pieces of art present different disclosures and the combination has been more thoroughly discussed. Additionally, the two pieces of art are more closely tied to each other than in the prior rejection. For example both Murakami and Nishibe discuss photosensors for use in an image sensor.

The Appellant additionally argues that there is no need for the wide dynamic range of Nishibe as the display would "not be outside."

The Examiner must again respectfully disagree. It should be noted that there is no claim requirement that the display not be outside. Furthermore it seems clear from Murakami that the display is outside (para. 27).

Finally the Appellant argues that there is no proof that Nishibe's technique is faster than Murakami's and that there is no need for speed.

The Examiner must respectfully disagree. It is seen as quite clear and obvious that a technique which only requires computation of a light-level in a portion of the image plane will be faster and less processing-intensive. Furthermore an increase in speed, while perhaps not the most necessary element, would still benefit the display brightness control. For example, should a user move the device from dark to light environments quickly a certain speed would be beneficial to the brightness control of the display.

Section C merely relies upon the above stated arguments.

(11) Related Proceeding(s) Appendix

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are provided herein.

(12) Evidence Appendix

Copies of Murakami and the cited translation are provided herein.

(13) Conclusion

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

William Boddie

/William L Boddie/
Examiner, Art Unit 2629

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